tion in the policy. What condition 5 conferred on the appellants was an option to 'take over and conduct ... the defence or settlement or any claim or to prosecute ... for its own benefit any claim for indemnity or damages or otherwise ...'. These words plainly referred to civil claims and had nothing to do with criminal charges. Accordingly, this part of condition 5 did not affect the plea of guilty at all. In any case, even if this part of condition 5 were applicable, the appellants, having refused to take over the defence of these criminal charges, could not complain about the second respondent dealing with the charges in the way he had done, especially in circumstances where he knew he had no defence whatever.

What the appellants could legitimately have complained of was that the plea of guilty amounted to an admission under condition 5. But this issue was not before the arbitrator and therefore there could be no appeal on it. In any event, I might observe that when the appellants subsequently repudiated the policy on 21 April 1986, they did so not on the ground of an admission but on the ground of a breach of a road traffic regulation governing the condition of tyres when used in a motor vehicle. The said offence was one of strict liability and the plea of guilty in no way implied any negligence on the part of the second respondent. As far as this ground was concerned, the arbitrator had made a finding of fact that the condition of the tyre was such that it did not breach condition 3. This finding was not appealed against in this appeal. The arbitrator's finding meant that the repudiation by the appellants was wrongful. Accordingly, the appellants had no defence to the respondents' claim for indemnity under the policy. For the above reasons, the appeal was dismissed with costs.

Appeal dismissed.

Solicitors: *Tang & Partners*; *Fam Tay & Lee.*

Reported by *Terence Tan Bian Chye*

Tang Tuck Wah v Public Prosecutor

HIGH COURT (SINGAPORE) — MAGISTRATE'S APPEAL NO 536 OF 1986
SINNATHURAY J
1 APRIL 1990

Criminal Law — Breach of trust — Dishonest intent — Penal Code (Cap 224, 1985 Ed), s 408

Criminal Procedure — Statements — Admissibility — Recorded by CPIB investigator — Criminal Procedure Code (Cap 68, 1985 Ed), s 122 — Prevention of Corruption Act (Cap 241, 1985 Ed), s 26

Evidence — Statements — Admissibility of statement recorded by CPIB investigator — Whether caution under s 26 of Prevention of Corruption Act can amount to threat or inducement — Accused bound to tell the truth — Principles to be applied

Evidence — Mixed statements — Court may reject exculpatory portions of statement

The appellant was initially investigated by the CPIB on a suspicion of corruption. He was eventually charged with breach of trust. He was tried and convicted in the district court, and appealed against his conviction. Among his grounds the appellant stressed that the statement recorded by the CPIB investigator should not have been admitted in evidence at trial.

Held, dismissing the appeal:

(1) The investigative powers of CPIB officers are not restricted to the investigation of corruption offences. They can investigate any seizable offence under any written law which comes to light in the course of their investigations under the Prevention of Corruption Act (Cap 241, 1985 Ed) ('PCA'). In so far as offences under the Penal Code are concerned, their investigations are deemed to be police investigations and s 122 of the Criminal Procedure Code (Cap 68, 1985 Ed) ('CP') applies in the same manner and to the same extent as if the CPIB officers are police officers. It follows, therefore, that the test to be applied in determining the admissibility or otherwise of a statement given under s 26 of the PCA is the test of voluntariness in that the making of the statement was not caused by any inducement, threat or promise.

(2) The mere fact that s 26 of the PCA was brought to the attention of the appellant by showing it to him, cannot import a threat or inducement rendering the appellant's statement inadmissible. If a person is legally bound to give information it meant that there was an obligation under the law to tell the truth and the performance of that obligation alone could not be equated to a threat.

(3) The mere fact that the proviso to s 16 of the PCA does not specify a police rank for a CPIB officer does not make a statement recorded by a CPIB officer inadmissible under s 122(5) of the CPC.

(4) The appellant's statement which he voluntarily gave incriminated him. Although the statement contained exculpatory matters, it should be borne in mind that the incriminating parts were likely to be true whereas the excuses need not carry the same weight.

Cases referred to

1 *Haw Tua Tau* v *PP* [1981] 2 MLJ 49 (refd)
2 *Chye Ah San* v *R* [1954] MLJ 217 (refd)

3 *Chua Beow Huat* v *PP* [1970] 2 MLJ 29 (folld)
4 *Commissioners of Customs and Excise* v *Harz & Anor* [1967] 1 All ER 177 (folld)
5 *Chan Kin Choi* v *PP* [1991] 1 MLJ 260 (folld)
6 *R* v *Sharp* [1988] 1 All ER 65 (folld)

Legislation referred to
Criminal Procedure Code (Cap 68, 1985 Ed) s 122
Penal Code (Cap 224, 1985 Ed) s 408
Prevention of Corruption Act (Cap 241, 1985 Ed) ss 16, 26

Richard DuCann QC (*Amarjit Singh* with him) for the appellant.
Lawrence Ang (Deputy Public Prosecutor) (*Geraldine Pang* (Deputy Public Prosecutor) with him) for the respondent.

Cur Adv Vult

Sinnathuray J: The appellant, Tang Tuck Wah, was tried in the district court on eight charges of criminal breach of trust in respect of various sums of money which had been entrusted to him in his capacity as the general secretary of the Automobile Association of Singapore (AAS) by one Lee Poh Choo at No 336 River Valley Road, Singapore, offences punishable under s 408 of the Penal Code (Cap 224, 1985 Ed). The dates on which the various offences were alleged to have been committed and the sums in question are set out below:

First amended charge	February 1985	$2,300
Second amended charge	23 May 1985	$1,001.85
Third amended charge	23 May 1985	$1,159.20
Fourth amended charge	10 July 1985	$641.42
Fifth amended charge	24 July 1985	$659.20
Sixth amended charge	20 August 1985	$779.30
Seventh amended charge	August 1985	$1,000
Eighth amended charge	September 1985	$1,000
		$8,540.97

At the conclusion of the trial the appellant was convicted by the learned district judge on all the eight amended charges. He was sentenced to one day's imprisonment in respect of each of the charges and fined a total of $15,500. Pursuant to s 18 of the Criminal Procedure Code (Cap 68, 1985 Ed) ('the CPC'), the learned district judge ordered that the sentences of imprisonment in respect of two charges, namely, DAC 1724/86 and DAC 1725/86 were to run consecutively, whilst the rest were to run concurrently.

The appellant being dissatisfied with the convictions has appealed against them, and the public prosecutor has appealed against the sentences imposed on the appellant.

Preliminary

Before the appeal proper commenced, counsel for the appellant, Mr DuCann QC, made two applications:

(1) leave to file a supplemental petition of appeal to raise additional grounds of appeal, and

(2) leave to adduce additional evidence under s 258 of the CPC, to give an account concerning a witness for the defence who had been present in court during the prosecution case.

I granted both the applications in the interests of justice, and shall deal with the latter matter in some detail later.

The prosecution case

The appellant was the general secretary of the AAS at the material time. As the general secretary, he reported to the general committee and he was effectively chief executive officer of the AAS. He was in charge of the day-to-day running of the affairs of the AAS.

At that time, Milton Tan Hong Moh ('Milton Tan') was the president of the AAS. The other senior officers who figured at the trial were Jack Cheah Keong Hoe ('Cheah'), the recreation club manager, Jeremy Wong Teck Min ('Wong'), the accounts manager, and Betty Chan Yuen Toh ('Betty Chan'), the appellant's personal assistant.

The material facts of the prosecution case are these. Sometime in late 1984, the general committee decided to have a snack bar at the newly-constructed premises of the AAS at 336 River Valley Road. There was no dispute that it was the appellant who had recommended to the general committee that the AAS should run the snack bar. This was accepted by the general committee.

As instructed by the appellant, Wong drafted an advertisement which was published in *The Straits Times* on 12 December 1984 inviting tenders from prospective operators of the proposed snack bar. Sometime later, the appellant told Milton Tan that the advertisement drew only one written response from a restaurant operator and it was the only tender tabled for discussion by the general committee. However, according to Betty Chan, she received a number of replies through the post, and these had been forwarded to the appellant.

(i) Evidence of Lee Poh Choo:

When Lee Poh Choo saw the advertisement, she approached the appellant and negotiations began between them. The appellant agreed to rent out the snack bar to her and her sister and business partner, Lee Poh Poh, for the sum of $1,500 per month. This took place in early February 1985. As she was to start business that month, she negotiated to pay half the rental for February. The appellant agreed to it.

Lee Poh Choo said that in February she made a cash payment of $1,500 as advance rental and $800 as rental for February, totalling $2,300, to the appellant. She said that the appellant had specifically instructed her to pay the rentals only to him. She complied, and until September 1985 she did not pay the rentals to

anyone else. They payments were usually made in the appellant's office. On one or two occasions, however, when he visited the snack bar she paid rent to him there. She said she made cash payments of $1,500 in March, $1,500 in April, and $1,00 each month from May to September. She further explained that as her snack bar business was losing money the monthly rent had been reduced to $1,000 per month from May onwards.

According to Lee Poh Choo the accounts for the business were initially maintained by her brother-in-law, Toh Wai Chin ('Toh'), as neither she nor Lee Poh Poh could read or write English. Toh assisted them for a few months after which Lee Poh Choo's daughter, Ho Kim Hee, took over from him.

In cross-examination, Lee Poh Choo said that when she saw the advertisement she approached the appellant, whom she had known for many years since her school days. She disagreed with the suggestion put to her that the arrangement with the appellant was for her to retain only the monthly sum of $1,500 from the snack bar's takings and to hand the balance over to the AAS. She denied that she was a 'contract employee' of the AAS. She also disagreed that it was a term of the agreement that she was to submit to the AAS monthly statements of accounts showing her income from the snack bar. She said the monthly statements were only prepared and submitted when she was required to do so by the appellant, and this came about when she requested a reduction in the rent.

As for the rents she paid, she never received any receipts from the appellants or anyone else in the AAS. Although she had asked for the receipts, the appellant had not issued any to her, giving excuses that he was not free and promising that he would do so at some later date. But he never did.

She was also cross-examined at some length as to her financial means. There were insinuations that she was an unlicensed moneylender. However, these allegations were not relevant to the issues at hand.

(ii) Evidence of Lee Poh Poh:

Lee Poh Poh, who gave evidence for the prosecution, substantially supported her sister. As regards the payment of rent for the snack bar she would give the rent money to her sister who in turn would give it directly to the appellant. She confirmed that initially her husband Toh kept the accounts for them, but when he became too busy to do so her niece, Ho Kim Hee, did the work.

Under cross-examination Lee Poh Poh said that she accompanied her sister to the appellant's office during the initial stages of the discussions. Although the licence from the authorities to run the snack bar took effect from 1 March, they had commenced business in the first week of February

(iii) Evidence of Toh:

Toh testified that he helped the two sisters to keep accounts for the months of February, March and April. He maintained the accounts book (exh P19) for them. Sometime in April, on Lee Poh Choo's request that the appellant wanted the statements of accounts, Toh started to prepare them. However, when shown exh P18 which consisted of several statements of accounts, Toh denied that these were prepared by him. He had not seen them before.

On the statements of accounts which he said he had prepared, he explained that he had extracted only the expenditure items that were in the accounts book (exh P19). He had left out the particulars of the income of the snack bar. He said that this was done because the appellant had told Lee Poh Choo that he only wanted the expenditure items for the months of March, April and May.

He was also asked to compare exhs P18 and P19. Toh said that whilst the expenditure entries were very similar in these two sets of documents, the entries as regards income were very different.

(iv) Evidence of Ho Kim Hee:

Ho Kim Hee testified that she kept accounts for her mother and her aunt from May to July. The accounts she kept were recorded in a file containing several sheets of paper which were marked as exh P20, but for the month of May she recorded the accounts in the book (exh P19) which was earlier kept by Toh. From these accounts she was able to say that for the months of May, June and July the sum of $1,000 per month was paid out as rent for the snack bar business. No accounts were kept after July as she was busy looking after her son. When she was shown exh P18 she said the statements therein were not in her handwriting and she denied any knowledge of them.

(v) Evidence of Wong:

Wong, the head of the accounts department of the AAS, had been with the AAS since 1976. He reported directly to the appellant. His duty included taking charge of the accounts of the AAS and its subsidiary companies. He liaised with the banks, contractors, consultants and many others concerning the various AAS projects.

Wong knew that the AAS ran a snack bar. He was emphatic in his evidence that the snack bar takings and the statements of accounts in exh P18 were handed to him personally by the appellant. However, he could not recognize the handwriting in the statements and did not know who had prepared them. He recalled that the statements for March and April were given to him in May; for May and June he received them in July; and the July accounts were handed to him in August.

He confirmed that he issued official receipts (exh P21) of the AAS for the moneys which the appellant handed over to him in his office. He said that the appellant told him that the moneys represented the net takings of the snack bar. On each occasion, Wong would take the moneys and give them to the cashier. An official receipt was issued for each payment the appellant made. Wong gave the original yellow copy of the receipt, which came in three sets, either to the appellant directly or to Betty Chan whenever the appellant was busy. The second copy, the green duplicate copy, was attached together with the statement of accounts and kept in his department. The white copy, the third copy, was given to the accounts clerk. This procedure was repeated for each of the sums he received from the appellant. Wong said the moneys were invariably paid in cash. They were $838.95 for March and April, $358.58 for May, $340.80 for June, and $220.70 for July respectively.

As far as Wong could remember, the appellant had told him that the gross takings less the outgoings represented the net profit for the AAS. He said that on the second page of each of the statements in exh P18 there was an entry showing that salary was paid for three persons totalling $1,500. To him this signified that the AAS had engaged these persons to run the snack bar. He added that there was also an entry showing salary of $200 for the lunch cook for the months of March and April. For May there was only one entry in respect of the sum of $1,700 as salary for three persons. Similar entries were also made for the months of June and July.

As part of his duties, Wong prepared financial reports for the general committee which met monthly. For the month ending 31 May, the sum of $838.95 was reflected as profit from the snack bar in the statement of accounts of the AAS. No cash profit was collected for June. In the statement of accounts for the month ending 31 July, there was an entry that the snack bar made a profit of $699.38 representing the profits for May and June. For the month ending 30 September, $220.70 was shown as the profit for August. There was no entry in respect of any collection in September.

When exhs P19 and P20 were shown to him, Wong denied having seen them before.

Wong recalled that on 16 September he was called into the conference room of the AAS. In the room he saw Milton Tan and the assistant secretary. Milton Tan said the appellant had just handed him the sum of $2,000 which represented the rent for August and September of $1,000 each. Milton Tan then drafted a letter and gave it to Wong who also took the cash of $2,000 from him. When he enquired as to what should be done with the money Milton Tan told him to hand it over to the Corrupt Practices Investigation Bureau ('CPIB'). The following day Wong went to the CPIB and surrendered the money to them.

In cross-examination Wong said that when tenders were called for the snack bar it was clear to him that the snack bar operator was to pay rent. However, in March or April when the appellant handed him the moneys he was told that they were the net takings of the snack bar operations and that the snack bar was run by the AAS. Wong was surprised to hear this since it was a departure from the terms of the advertisement.

Much of the cross-examination of Wong centred around the nature and origin of cash amounting to the sum of $20,000 found in the safe in his office. The mystery of this sum of money was not unravelled at the trial, but it is clear from the notes of evidence that Wong gave conflicting versions of how and why the money came to be in the safe. Defence counsel made much of this with regard to the veracity of Wong before the trial judge.

(vi) Evidence of Milton Tan:

Milton Tan testified that on 16 September on his return to Singapore from a visit to Penang he was surprised to see the appellant waiting to fetch him at the airport. He enquired as to why the appellant had wasted his time to pick him up when transport had already been arranged. To this the appellant merely said he was free. But when they got into the car the appellant handed him cash of $2,000 which he said was the rental for the snack bar for the months of August and September. Milton Tan was, to say the least, displeased that the appellant had not handed the money over to the accountant to keep it in the office safe. The appellant explained that he had wanted to accumulate the money and present it to the general committee at the end of the year.

When he got to his office, Milton Tan called for Wong and handed him the $2,000. He said Wong initially refused the accept the money because he appeared to be very frightened. Wong had said something about the appellant wanting to trap him and that if he took the money he would be killed. Milton Tan replied that that was nonsense. He confirmed that he wrote a letter to Wong concerning the $2,000. Wong then took the money.

According to Milton Tan, he only learnt about the identity of the real operators of the snack bar when the CPIB told him that the AAS in fact did not run it. He was very shocked by this news. After learning about the true nature of the arrangement, he asked the appellant to see him in his office. There the appellant told him that with regard to the sum of $2,000 which was found in his house by the CPIB, he had wanted to present it as a surprise to the general committee.

After the CPIB had commenced investigations, Milton Tan met the snack bar operators to find out for himself first-hand about its operations. He was told that initially the rent was $2,000 a month. Then it was reduced to $1,500 and later to $1,000. However, despite these reductions the operations still could not make ends meet. He later briefed the general committee at their meeting in September and it was decided to reduce the rent to $800 a month.

In cross-examination Milton Tan said he had known the appellant for some 30 years, and that he could not comprehend what Wong had meant when he said he feared for his life on account of the appellant. He thought Wong was being 'over dramatic'. As investigations were then taking place he thought the appellant's action in handing the money to him as the president of the AAS and as his friend was a natural thing to do.

(vii) Evidence of Betty Chan:

Betty Chan testified that as the personal assistant to the appellant, she dealt with matters relating to the advertisement in connection with the snack bar. She denied having anything to do with exh P18 and said that she had never seen it before. She had, however, on one or two occasions seen receipts made out in respect of the snack bar. These were given to her by Wong with instructions to pass them on to the appellant.

(viii) Trial within the trial:

In the course of the trial, when the prosecution sought to admit a statement that was recorded from the appellant under s 26 of the Prevention of Corruption Act (Cap 241, 1985 Ed) ('PCA'), Mr Grimberg, who defended the appellant at the trial, objected on the grounds that that statement was not admissible in law, as well as in fact, in that it was not made voluntarily. After hearing submissions, the learned district judge ruled that the statement was admissible in law. A trial within the trial was then held to determine whether the statement had been made by the appellant voluntarily.

At the hearing, Raymond Ng ('Ng') a chief special investigator with the CPIB, gave evidence that he had taken a statement from the appellant on 11 September. Ng said that s 26 was shown to the appellant who read it himself and confirmed that he understood it. The interview was conducted in English. Ng then recorded the appellant's statement from 7.30pm and concluded it at 11.20pm. The appellant was given the opportunity to read his statement, which he did, and he then appended his signature on each page of it. Ng denied that there was any threat, promise or inducement made to the appellant during the recording of the statement; it was given by the appellant voluntarily.

The appellant gave evidence during the voire dire. His testimony was that on 11 September he was brought to the CPIB office at Hill Street very early in the morning. The CPIB officers began to interview him at slightly after 8am, and at 9am they took him to the AAS building where a search was conducted. He was then taken back to the CPIB office and there the interview was resumed. He said that besides Ng, four or five officers were present throughout the interview. He alleged that they threatened to take him home and embarrass him in front of his family; they threatened to attract his neighbours' attention to humiliate him; and they threatened to take him back to his office to disgrace him in front of his staff. They also shouted at him. He became confused, upset and angry.

According to the appellant, he was questioned by the CPIB officers throughout the day and night and into the early hours of the next morning. It was only at about 3.30am that he was told he could go home. As he had no transport, he had to walk home. He reached home at 4am.

What is curious about the evidence of the appellant is that at no time in his evidence did he say that he had given a statement to any CPIB officer. Nor did he make any claim or specifically state that the statement which the prosecution sought to admit in evidence was extracted from him under threats. He did not give any evidence of any promise or inducement made to him.

At the conclusion of the trial within the trial, the learned district judge was satisfied that the appellant had given the statement voluntarily and admitted it in evidence as exh P29. Here, it is sufficient to say that the appellant had gravely incriminated himself in this statement. Three other statements by the appellant were then admitted in evidence without objection by defence counsel. They were exhs P31, P32 and P33.

After the statements were admitted, the prosecution concluded its case. Defence counsel then submitted that there was no case to answer. The learned district judge rejected the submission. He was satisfied that a prima facie case had been made out against the appellant and called upon him to enter on his defence to all the eight charges. At this point, his counsel informed the court that Cheah was to be a defence witness. The learned district judge noted in his notes of evidence that Cheah had been in court during the prosecution case. Cheah was then sent out.

The defence

The appellant's defence was a denial that he had received any money from Lee Poh Choo as rentals for the months of February to July 1985, the subject matter of the first six amended charges. With regard to the rental for August and September totalling $2,000 in the sev-

enth and eight charges, he conceded that although he accepted this sum of money he had no dishonest intention to convert it to his own use.

(i) Evidence of the appellant:

The appellant said the subject of the snack bar first arose sometime in 1984. Subsequently, the general committee authorized the AAS to advertise for someone to operate the snack bar. It was contemplated that the snack bar would be rented out to the operator. The appellant said he however later changed his mind and decided on his own that it would be more beneficial to the members if the AAS were to run the snack bar itself.

According to the appellant, he had known Lee Poh Choo for some 40 years, but the last time he saw her was in the late 1960s. When Lee Poh Choo approached him to run the snack bar, he showed her around the new premises of the AAS. He informed her that she could employ as many persons as she wished, but that the remuneration she would receive each month would not be more than $1,500. The sum of $1,500 would come out of the proceeds of sale of food and beverage at the snack bar, and after deduction of all outgoings, the balance would be the profits of the AAS. In the event that there was a shortfall the AAS would bear the loss. The appellant said that this arrangement was to be for a trial period of six months starting from 1 March. He promised Lee Poh Choo that if the business was a success the terms would be reviewed. However, if the services of the snack bar were unsatisfactory her employment as the snack bar operator would be terminated.

When the terms of employment were put to Lee Poh Choo, the appellant said she accepted them. She was given permission to bring the utensils and equipment into the premises and start business in mid-February. According to him, it was a term of their arrangement that she would furnish him monthly statements of accounts in order that he could monitor the business. He later introduced Lee Poh Choo to Cheah as a 'contract employee' of the AAS.

The appellant denied having received any money from Lee Poh Choo in February. He denied having seen her at all in March and April. In early May upon his return from an overseas trip, Lee Poh Choo came to see him and informed him that she was unhappy with their arrangement because, she told him, she had to rely on Toh for the preparation of the monthly statements of accounts. They then renegotiated the terms of their arrangement. Lee Poh Choo proposed that she paid rent of $1,000 per month, irrespective of what her monthly takings were. According to him, this new arrangement was to be backdated to take effect from 1 March. The appellant said that after some haggling he accepted her terms, but had insisted that she still had to submit the monthly statements of accounts.

Shortly after this, Cheah met Lee Poh Choo in the appellant's office where the new arrangement was explained to him and he agreed to it. A few days later Lee Poh Choo called at the appellant's office and gave him the statements of accounts for March and April. She did not give any statement in respect of February. The appellant said he sent the statements of accounts to Wong in the accounts department and informed him that they were the snack bar accounts for March and April. He assumed that Cheah had explained the new arrangement to Wong.

The appellant also said that sometime in the latter part of May, Lee Poh Choo met him in his office and gave him $2,000 cash as rentals for March and April. He called Cheah into his office and handed the money to him in front of her. He instructed Cheah to 'settle the rental' with the accounts department. Cheah left his office with the money.

For a period of time between June and July, the appellant was away overseas. He recalled that he returned from London on 23 July. Soon after his return Wong came to see him in his office and said he had heard rumours about the snack bar operators paying rent of $1,000 per month. He told Wong that that was true and assured him that it was all right and there was nothing to worry about as everything would be accounted for. He then asked Wong whether Cheah had explained to him the new arrangement made with the operators. When Wong demurred, the appellant told him to speak to Cheah again.

On the same day, the appellant called Cheah into his office and enquired about the sum of $2,000 which Lee Poh Choo had given him in May. Cheah told him that he had given the money to Wong together with the statements of accounts for March and April but that Wong would only accept what was stated as the profits of the AAS in the statements of accounts. Cheah explained to the appellant that he kept the balance in his office. When the appellant heard this, he instructed Cheah to bring the money over to him at once because he wanted to ensure that Cheah still had the money. Cheah complied and brought the money to the appellant. According to him, Cheah placed the envelope containing the money on the appellant's desk and said that it contained $2,500. The appellant opened it and saw that it contained one $1,000 bill and three $500 bills. He said he was displeased that Cheah had not carried out his instructions to settle with the accounts department the sum of $2,000 which he had given him in May. He was upset with Cheah and scolded him. He then angrily threw the envelope and its contents into his desk drawer. The appellant denied receiving any payment from Lee Poh Choo for May and June.

The appellant described in some detail how busy he had been in the month of August. He had many matters to attend to and these included business trips to West Malaysia. On the evening of 7 August as he was preparing for an early morning trip to Malaysia, he suddenly remembered the envelope containing $2,500 cash in his desk drawer. He immediately telephoned the accounts department to ask for Wong. There was no reply and he realized that as it was past 5.30pm the office was closed. He therefore decided to bring the money home for safekeeping which he did.

At home, his wife saw him putting the money into a chocolate box they kept in their bedroom. When she enquired about it he explained to her that it belonged to the AAS and that it came from the snack bar, and that he kept it there as a temporary measure. The appellant explained at the trial that the AAS premises had been broken into and there had been theft of money. He thought the money would be safer in his house which was installed with what he described as 'a very tight security alarm system'. On his return from Malaysia on 11 August as he was still very busy with his work he had completely forgotten about the $2,500 in his chocolate box.

As regards the rentals for August and September the appellant's evidence was that on 8 August, Lee Poh Choo came to his office and handed him $1,000 for the August rent. He left the money in the pencil tray compartment of his desk. A month later, on 10 September Lee Poh Choo again came to his office and gave him the rental of $1,000 which he also put in the pencil try together with the money he had collected in August.

On 11 September, at about 7.30am, the CPIB officers went to the appellant's house and took him to their office for investigation.

On 16 September, the appellant met Milton Tan at the airport and handed him the sum of $2,000 which he said was the collection from the snack bar. This was the money he had kept in the pencil tray of his desk. He told Milton Tan that the money belonged to the AAS. He said he handed the money to Milton Tan because he thought it was proper as he was directly responsible to him. When pointedly asked in cross-examination as to why he had not handed the money to the accounts department, the appellant replied that he thought it was best that he handed it to Milton Tan in the light of the CPIB investigations. He, however, conceded that normally he would not have handed to Milton Tan money which he had received in the course of his duties.

With regard to exh P18, the appellant denied having anything to do with these statements of accounts. He could not recognize the handwriting on them.

In cross-examination, the appellant denied that he had asked the snack bar operators to furnish him with the statements of accounts. He said he only asked for the statements when he realized that the operators had not submitted their accounts for March and April. He got them in May. He denied that on 23 May he handed Wong the sum of $498.14 being the alleged profits for March. He said he only gave him the statements of accounts. In like manner, he denied handing over the sums of $340.80 and $220.70 as the purported profits for June and July.

(ii) Evidence of Cheah:

Cheah had retired from the police force in 1982 with the rank of senior inspector. He then joined the AAS as its recreation club manager and was in charge of amenities of the AAS.

Cheah gave evidence which sought to support the appellant's defence. His evidence concerned Lee Poh Choo's employment as a 'contract employee' of the AAS. Cheah also supported the appellant's claim that towards the end of May the appellant handed $2,000 cash to him with instructions to 'settle it' with the accounts department. As regards the two statements of accounts for March and April, which were in exh P18, his account was similar to what the appellant had said.

The prosecution sought to impeach the credit of Cheah's testimony by reason of the material discrepancies between what he said in court and his previous statement (exh P37) made to the CPIB on 1 August. The learned district judge, however, refused to rule that Cheah's credit had been impeached.

The trial judge's findings

At the close of the prosecution case, the trial judge rejected the submission of no case to meet because he was of the view that the material prosecution witnesses, namely, Lee Poh Choo, Lee Poh Poh, Toh and Wong had given credible evidence.

Thereafter, at the conclusion of the case, on a review of the evidence given at the trial, the learned district judge believed Lee Poh Choo and her sister, Lee Poh Poh, and disbelieved the appellant. He found as a fact that her agreement with the appellant was that Lee Poh Choo would pay rental of $1,500 per month commencing February; that as she did not operate for the full month of February the appellant had agreed to reduce the rental for that month to $800; and that pursuant to this arrangement she paid the appellant $1,500 as advance rental and $800 as February rental, a total of $2,300. He also found that she had paid rent monthly up to September totalling $10,300 all, of which was paid in cash directly to the appellant.

The trial judge also accepted Wong's evidence in particular that the purported profits from the snack bar

and the statements of accounts were handed to him personally by the appellant, and that it was the appellant who had handed exh P18 to him. Although certain aspects of Wong's evidence was 'not entirely satisfactory' the learned district judge nevertheless was satisfied that these had not affected his credibility as a witness of truth. The trial judge was fortified in his assessment of Wong's testimony because when it came to the five payments made by the appellant to him this was supported by documentary evidence in the form of the five receipts which Wong had issued.

In considering the defence case, particularly with regard to the evidence of the appellant, the trial judge found that his evidence materially conflicted with that of Lee Poh Choo and Wong who were two totally independent witnesses in respect of the various payments that were made. He rejected that they had fabricated evidence against the appellant.

Commenting on Cheah's testimony, the trial judge noted that he had been present in court throughout the prosecution case. Though at the end of the impeachment proceedings, the learned district judge had ruled that his credit was not impeached, on a consideration of the whole of his evidence, he found that the contradictions in his evidence were such that they affected his credibility. He rejected Cheah's evidence in support of the defence as totally reliable.

With regard to the sum of $2,500 recovered from the appellant's house and the sum of $2,000 given to Milton Tan, the trial judge was not convinced that they were nothing more than moneys which the appellant had simply forgotten about and which he had every intention of handing over to the general committee as a pleasant surprise to them. He rejected the appellant's various explanations for keeping these sums of money.

The appellant's defence had not raised any reasonable doubt. The learned district judge found that the appellant had received a total sum of $10,300 from the snack bar operators but had only accounted for a small part of it to the AAS as particularized in the second to sixth charges. He accordingly found the appellant guilty of all the eight amended charges and convicted him on them.

The appellant's submissions

At the hearing before me, Mr DuCann raised many grounds of appeal against the decision of the trial judge. The principal grounds may be summarized as follows.

Firstly, it was submitted that there had been a miscarriage of justice as the trial judge had wrongly admitted in evidence the appellant's statement (exh P29) which was recorded under s 26 of the PCA. It was argued that (a) the statement was not a voluntary statement by the appellant, and (b) any statement taken under s 26 of the PCA was inadmissible in evidence if it was self-incriminatory, as the appellant's statement was.

Counsel submitted at length that the ambit of the PCA was limited to the effectual prevention of corruption. He argued that the court must give a narrow interpretation to the words 'information' and 'duty' in s 26. He noted that s 26 did not provide for the admissibility of the information given under its compulsory powers to give that information. As for s 16 of the PCA, which deals with the powers of investigation of CPIB officers, he argued that it is merely an enabling section which imposes no duty on special investigators claiming the general investigative powers conferred under Part V of the CPC. Therefore, the statement (exh P29) which the trial judge had admitted in evidence was not admissible in law. It was also argued that neither the PCA nor the CPC cloaks CPIB officers with any particular rank in the police force.

Secondly, the submission was that the trial judge had misdirected himself in law when he came to a positive conclusion on his findings of fact at the end of the prosecution case based on the evidence of Lee Poh Choo, Lee Poh Poh and Wong. In other words, he had failed to follow the principle set out in *Haw Tau Tua* v *PP*[1] in that he had not kept an open mind on questions of fact pertaining to the guilt of the appellant until the close of the defence case when all of the relevant evidence would have been adduced.

On this ground, the arguments involving the facts were these:

(i) The learned district judge had erred in holding that there had been dishonest intention on the appellant's part in retaining the rents despite the fact that the sum of $2,000 had been handed over to Milton Tan whose evidence was favourable to the defence. It was argued that Milton Tan's testimony that the appellant's position in the AAS gave him a very wide discretion in the conduct of its affairs had been ignored by the trial judge. The appellant's more significant and heavier responsibilities in the AAS overshadowed the operations of the snack bar which was 'small beer' in comparison. He was a wealthy man who had refused to take advantage of a discount amounting to some $35,000 in his purchase of the penthouse in the AAS building. All these facts negatived dishonest intention, counsel submitted.

(ii) The evidence before the trial judge was of such a tenuous nature that at the end of the prosecution case the defence had nothing to answer. This was because the testimony of Lee Poh Choo, Lee Poh Poh and Wong had been so discredited as a result of their cross-examination that it became mani-

festly unreliable. What was then left of their evidence failed to make out the essential ingredients of the charges. There was thus no case for the appellant to meet at the conclusion of the prosecution case.

(iii) The trial judge had erred when he accepted the evidence of Lee Poh Choo relating to her payment of rent to the appellant when the only other evidence in support of this came from her sister, Lee Poh Poh. They could not be said to have been disinterested witnesses. There was therefore no corroboration of Lee Poh Choo's evidence. Counsel argued that a rule of common sense to be applied was that when members of a family gave evidence their evidence should be scrutinized carefully.

Thirdly, the trial judge had wrongly allowed Cheah to remain in court throughout the prosecution case and this fact had been the subject-matter of an adverse comment by him on his grounds of decision. It was argued that by implication the weight of Cheah's evidence upon which the appellant's defence had sought support was considerably diminished. This had occasioned a failure of justice.

Fourthly, there had been a miscarriage of justice in that the trial judge having ruled that Cheah's credit had not been impeached, had found as a fact that the contradictions in Cheah's evidence had adversely affected his credibility. In his grounds of decision, the trial judge had relied virtually on the same contradictions which formed the subject-matter of the prosecution's application for impeachment of Cheah's credit. The argument was that the trial judge should have made a finding which was favourable to the appellant, but had failed to do so. Having wrongly approached the question of Cheah's credibility, the trial judge had deprived the appellant of the benefit of Cheah's evidence.

Lastly, the submission was that the trial judge had failed to appreciate the significance of exh P18. Counsel submitted strenuously that the appellant's case in this appeal was that the existence of these statements of accounts supported two inferences, both of which were crucial to the appellant's defence and arose from the fact that Cheah's signature was found on each of these statements. The first was that they showed that Cheah dealt with Lee Poh Choo in connection with the operations of the snack bar. Secondly, they showed that it was Cheah who handed the statements of accounts and the money to Wong, not the appellant. Neither of these two inferences had been considered by the trial judge.

Although at the trial, Mr Grimberg had sought to exclude exh P18, Mr DuCann was of the view that the exhibit was properly admitted in evidence. This, he said, was because Wong had given evidence that these statements had been handed to him by the appellant. He argued that if, as the prosecution asserted, only the expenditure items of the snack bar operations were recorded in the various statements which Lee Poh Choo gave to the appellant, it would have been impossible for him to come up with the statements in exh P18 because the various figures under the 'daily income' column must have been concocted, and yet when the entries under the 'daily income' column in exh P18 were compared with those in exh P19 there was a consistent difference of about $40 or so.

Counsel cautioned that the accounts in exh P18 must be carefully examined as they were crucial to the defence case. An obvious conclusion to be drawn was that the statements of accounts in exh P18 must have been compiled by someone who had access to the information in exh P18. It was submitted that the author of exh P18 could only have been a person who had the information which was in the possession of Lee Poh Choo, Lee Poh Poh, Toh or Ho Kim Hee. Therefore, the claim by these witnesses that they knew nothing about exh P18 could not be true. He concluded by saying that on a close examination of this evidence alone there was much doubt as to whether the prosecution had established its claim that it was the appellant who had caused exh P18 to come into existence. It was more likely that the appellant did not do this, counsel said.

The respondent's reply

The reply of Mr Lawrence Ang for the respondent is summarized as follows.

The learned DDP argued that the construction of s 26 of the PCA put for the appellant would have the astonishing effect that a person who was questioned by a CPIB officer could implicate anyone but not himself. The argument that a self-incriminating statement cannot be regarded as being made voluntarily would bring about absurd consequences. He submitted that the proper test to apply to the admission of a statement made to a CPIB officer under the PCA turned firstly, on its relevance, and secondly, on its voluntariness.

As for the admission of the appellant's statement (exh P29), the learned DPP said the issue of voluntariness had already been determined in the trial within the trial. The burden was on the prosecution to prove the voluntariness of that statement, and that had been done to the satisfaction of the trial judge.

With regard to the submission made of no case to meet, Mr Ang argued that the evidence of the main witnesses for the prosecution, namely, Lee Poh Choo, Lee Poh Poh and Wong, had not been discredited under cross-examination to render unreliable their evidence. The learned DPP was keen to show that the one fact which remained uncontroverted was the evidence of

Lee Poh Choo that she had paid rent to the appellant personally throughout the material time. Another uncontroverted fact was that the AAS had not received the full payments made by her. Moreover, there was no suggestion that Lee Poh Choo had any motive to 'fix' the appellant. It was ludicrous to suggest that Lee Poh Choo and Wong, who had nothing to do with each other, could have plotted to fabricate evidence against the appellant.

Another submission for the respondent on the topic of no case to meet was that on the evidence the trial judge was entitled to find that every essential ingredient of the charges against the appellant had been proved at the end of the prosecution case. On the principle of law that the trial judge had to keep an open mind as regards the guilt of the appellant until he had heard all the evidence adduced in the trial, he submitted that the learned trial judge had done exactly that.

In dealing with the evidence, the learned DPP submitted that the evidence of Lee Poh Choo and Lee Poh Poh with regard to the payment of $2,300 to the appellant was clear beyond doubt because Lee Poh Choo could not have operated a snack bar business without having paid any rent. As for Wong's evidence, the question of the $20,000 cash found in the safe in his office was an unconnected issue which had nothing to do with the allegations against the appellant.

On the question of the appellant's dishonest intention, it was submitted that the trial judge had properly found that the appellant had no good reason to keep moneys belonging to the AAS in his house or as he did in his desk drawer. Furthermore, there was undisputable evidence that the moneys paid to the AAS were less than what was received from Lee Poh Choo. The appellant's explanation to Milton Tan for keeping the sum of $2,500 to surprise the general committee was ludicrous. Also, the fact that the appellant held the top executive position in the AAS and had a wide discretion was irrelevant to the issue of dishonesty.

On the defence contention that there was a lack of corroboration of Lee Poh Choo's evidence on the payment of rents to the appellant, the short answer was that her evidence needed no corroboration since she was not an accomplice.

As regards the witness, Cheah, the learned DPP said that it was defence counsel's duty to inform the court that Cheah was to be a witness at the trial. His responsibility was to see that witnesses who would be required to testify should not be present in court before they were called to give evidence. The trial judge would not know who the witnesses were unless he was told. In this context, it was submitted that what Mr Lim Choon Mong, Cheah's counsel at the trial, had said in his affidavit in support of the application for leave to adduce fresh evidence could not be true as he was not counsel who had the conduct of the appellant's case in the trial court. From the learned district judge's grounds of decision it is clear that Cheah's evidence was not rejected for the reason that he had remained in court during the prosecution case. Cheah's evidence was rejected because the trial judge disbelieved him.

On exh P18, the learned DPP observed that the entries therein must have been false. He concluded that they must have been made to ensure that the offences with which the appellant was subsequently charged would remain concealed.

The final submission for the respondent was that the trial judge had made findings of fact which this court ought not to interfere with unless the findings were perverse, or patently wrong, or were not supported by the evidence. Such was not the case here.

The decision

From the foregoing, I am of the view that the many submissions raised at the hearing of the appeal boil down to two main issues. The first is a question of law on the admissibility of the appellant's statement (exh P29) made pursuant to s 26 of the PCA. A subsidiary issue here is whether after the appellant's attention had been drawn to s 26, any statement given by him can be said to have been given voluntarily.

The second issue concerns the findings of fact made by the trial judge, and as to whether he had erred in law when at the close of the prosecution case he decided to call on the appellant for his defence.

To consider the first issue, I have to set out the relevant provisions of ss 16 and 26 of the PCA:

> 16 In any case relating to the commission —
>
> (a) of an offence under section 165 or under sections 213 to 215 of the Penal Code, or of any conspiracy to commit, or of any attempt to commit, or of any abetment of such an offence;
> (b) of an offence under this Act; or
> (c) of any seizable offence under any written law which may be disclosed in the course of an investigation under this Act,
>
> the Director or a special investigator may, without the order of the Public Prosecutor, exercise all or any of the special power in relation to police investigations into a seizable offence given by the Criminal Procedure Code;
>
> Provided that an investigation into an offence under the Penal Code shall be deemed to be a police investigation to which Section 122 of the Criminal Procedure Code shall apply in the same manner and to the same extent as if the Director or the special investigator concerned were a police officer.
>
> 26 Every person required by the Director or any officer to give any information on any subject which it is the

> duty of the Director or that officer to inquire into under this Act and which it is in his power to give, shall be legally bound to give that information.

A careful reading of these sections shows that there is no ambiguity in the requirement to give information to a CPIB officer, and the investigative powers of CPIB officers are not restricted to the investigation of corruption offences under the PCA. CPIB officers, like police officers, can investigate any seizable offence under any written law which comes to light in the course of their investigations under the PCA. In so far as offences under the Penal Code are concerned, their investigations are deemed to be police investigations and s 122 of the CPC applies in the same manner and to the same extent as if the CPIB officers are police officers. It follows, therefore, that the test to be applied in determining the admissibility or otherwise of a statement given under s 26 of the PCA must satisfy the test of voluntariness in that the making of that statement was not caused by any inducement, threat or promise. In my view, this must be so because, under s 26, the 'information' given by a person questioned by a CPIB officer may well disclose a seizable offence.

In the present case, the CPIB started their investigation into a suspected offence of corruption, that was why s 26 was brought to the appellant's attention. However, further investigation revealed that offences of criminal breach of trust under the Penal Code were involved. The CPIB was, therefore, bound to investigate into these offences.

Mr DuCann had strenuously argued that his interpretation of s 26 would not result in the crippling of the PCA because although such statements were not admissible they were of value for purposes of investigation. Counsel had also referred to the fundamental rights of individuals and to the maxim *nemo tenetur seipsum accusare* (no one is compelled to accuse himself).

Having regard to the express wording of s 26, I cannot accede to the submission that the mere fact that that section was brought to the appellant's attention by showing it to him imported a threat or inducement rendering the appellant's statement inadmissible. As I have already said, what is to be applied here is the test of voluntariness and it is that which determines whether the statement is admissible or not. In this context, it is useful to note that under our criminal procedure an accused person's right to remain silent without suffering any adverse consequences at his trial has been removed by ss 122(6) and 123(1) of the CPC. Therefore, a self-inculpatory statement made by a person to a CPIB officer is admissible in evidence provided that there was no threat, promise or inducement offered in the recording of the statement.

Here I want to say a few words on some of the cases cited to me. Mr DuCann had referred me to the case of *Chye Ah San* v *R*[2] where it was held that a self-incriminating statement obtained from an accused person during an interrogation in which he was told he was bound to say everything, could not be said to have been made voluntarily. On the other hand, in the case of *Chua Beow Huat* v *PP*[3] it was held that if a person was legally bound to give information it meant that there was an obligation under the law to tell the truth and the performance of that obligation alone could not be equated to a threat unless the manner and mode of questioning was such that a threat could be reasonably inferred from the circumstances.

I agree with the view expressed in *Chua*'s case[3] that the legal maxim that no man can be compelled to incriminate himself holds good only to the extent that an accused person cannot be compelled to enter a witness box against his will to give evidence. However, it was held by the House of Lords in *Commissioners of Customs and Excise* v *Harz & Anor*[4] that where any statute confers the power to require information from a person and there is no express provision that incriminating answers may be used against him, the question of whether his answers are admissible in evidence subsequently must depend on the proper construction of that statute. In that case Lord Reid said at p 181:

> If a demand for information is made in the proper manner the trader is bound to answer the demand ... whether or not the answer may tend to incriminate him, and if he fails to comply with the demand he can be prosecuted. If he answers falsely he can be prosecuted for that, and, if he answers in such a manner as to incriminate himself, I can see no reason why his answer should not be used against him. Some statutes expressly provide that incriminating answers may be used against the person who gives them and some statutes expressly provided that they may not. Where, as here, there is no such provision, the question of whether such answers are admissible evidence must depend on the proper construction of the particular statute. Although I need not decide the point, it seems to me to be reasonably clear that incriminating answers to a proper demand ... must be admissible if the statutory provision is to achieve its obvious purpose.

There remains for me under this heading to consider the argument for the appellant that even if there can be no objection to a self-incriminating statement given under s 26, for such a statement to be admissible under s 122(5) of the CPC the recorder of it must have the rank of at least a police sergeant. It is not in dispute that neither the CPC nor the PCA makes reference to any police rank for CPIB officers.

Once again I cannot agree to the submission for the appellant. The mere fact that the proviso to s 16 of the PCA states that for the purpose of investigation under the Penal Code a CPIB officer is deemed to be a police officer does not mean he must be clothed with the rank of a police sergeant before the statement recorded by

him becomes admissible. To argue that because s 122(5) of the CPC stipulates the minimum rank of police sergeant, and s 16 of the PCA deems a CPIB officer a police officer, any statement recorded by that CPIB officer is inadmissible since he does not have the requisite rank of sergeant, would mean that all statements recorded by CPIB officers under s 16(a) and (c) would be inadmissible. This cannot have been the intention of the legislature for it effectively nullifies the investigative powers of CPIB officers except for corruption offences under the PCA.

Further, a careful perusal of the PCA shows that although no police rank has been expressly conferred on a CPIB special investigator, whenever a police officer is empowered to act under PCA that police officer must be either of the rank of assistant superintendent (see ss 17(1) and 19(1) of the PCA) or a police officer of the rank of inspector (see s 21(1) and (2)). The powers exercisable by these police officers are also exercisable by any special investigator of the CPIB.

For the reasons I have given, the appellant's statement (exh P29) is admissible in law. As for the voluntariness of the appellant's statement, I am of the view that the learned district judge had rightly determined that it had been made voluntarily, and he had properly admitted it in evidence.

I turn now to the second issue which resolves around the facts and the findings made on them by the trial judge. On this, it is to be noted from the record or proceedings that a substantial part of the cross-examination of Lee Poh Choo and Wong was directed to their credibility and was unconnected with the allegations of wrong-doing against the appellant. Much time was spent confronting Lee Poh Choo as to her financial means; allegations were also made that she was an unlicensed moneylender. Likewise, Wong was questioned at length on the sum of $20,000 cash found in the safe in his office on which he had given conflicting versions. It seems to me as a matter of common sense, the mere fact that a witness has told a lie on some irrelevant matters does not mean he is not to be believed on other matters. The issue of credibility being a matter for the trial judge to decide, and he having accepted the evidence of Lee Poh Choo and Wong, I am not disposed to disturb the findings he made.

On the evidence of Lee Poh Choo, I agree with the learned DPP that the reality of the matter is that she had paid rents to the appellant to operate the snack bar. The trial judge was also properly entitled to find on the evidence that the appellant had received rentals but had only partly accounted for them to the AAS. On these findings, he was bound to call for the defence of the appellant on the eight charges. There was no violation of the directions contained in *Haw Tua Tau*'s case.[1]

Next, there is the ground of appeal, not of great weight, that the trial judge had wrongly allowed Cheah to remain in court during the prosecution case. Mr Lim Choon Mong who filed an affidavit in support of the application for leave to adduce additional evidence, was cross-examined on para 2 of his affidavit wherein he affirmed that his client, Cheah, had not been allowed to leave the dock after the prosecution had applied, at the commencement of the trial, for the six abetment charges against him to be stood down. At the end of his evidence, I found that no application had been made to the trial judge, at that stage of the trial, by either Mr Lim or Mr Grimberg for Cheah to leave the court on the ground that Cheah was to be a defence witness. Mr Lim conceded in cross-examination that he himself had not spoken to Mr Grimberg on the matter. It seems plain to me that if anyone was to address the court on the question of who the likely witnesses for the defence were, it would be Mr Grimberg. At best Mr Lim had assumed that Cheah would be called as a defence witness. In any event, no application had been made to the trial judge, in the course of the trial, for Cheah to leave the court.

I am of the view that this episode has little bearing on the appellant's case for the reason that at the end of the trial the learned district judge had addressed his mind to the question of Cheah's credibility. When asked to impeach Cheah's credit as a witness, the learned district judge had refused to do so. He found that although there were discrepancies between Cheah's evidence in court and his statement to the CPIB, the contradictions were not of such a nature as to warrant the impeachment of Cheah's credit. However, the learned district judge found Cheah to be an unreliable witness in so far as his testimony in support of the appellant's defence was concerned and, in my view, there was ample evidence for him so to find.

On the submission that Lee Poh Choo's evidence had not been corroborated, I agree entirely with the learned DPP that she was not an accomplice of the appellant, and as such her evidence needed no corroboration.

On exh P18, I agree with Mr DuCann that these statements were properly admitted in evidence through Wong even though the identity of the person who prepared these accounts remains a mystery. However, the true identity of the maker is not an issue that goes to the root of the matter.

Plainly, as I view the evidence, exh P18 must have been fabricated, perhaps to deceive the AAS. I agree with Mr DuCann that the appellant was not the author as his handwriting would be known to his staff and would have given him away. However, it is clear that it was the appellant who gave exh P18 to Wong. These

accounts show that profits of $498.15, $340.80, $358.58, $340.80 and $220.70 were made from the snack bar operations for the months of March to July respectively. And it was for these very sums that receipts (exh P21) were in fact issued.

Finally, what is crucial in this case, is the appellant's own statement (exh P29) which he voluntarily gave to the CPIB. The admissions he made therein are most damaging to him. I quote here the relevant portion of that statement:

> 25 As for the moneys that I took from the snack bar operators, I must admit that I did not inform anybody about it. AAS and Milton Tan are not aware of this arrangement between myself and the snack bar operators. I know that the monthly statements are signed by Jack Cheah. I asked Jack Cheah to sign the statement and this was to show to the AAS that someone had actually verified the accounts. Jack Cheah, to be fair to him, is not a party to this misdeeds. I am not sure how he checked the accounts of the snack bar and to certify them as correct. As far as I am concerned, I did not tell him of the arrangements between me and the operators. I did not tell him that the operators were in fact paying me $1,000 every month although the actual profits they declared to AAS was much less than this figure. Jack Cheah has no share in this money which I put aside every month.
>
> 26 I wish to state that I did not have the intention to keep the money for myself. In fact I had kept the money at home and the amount involved was $2,500. This cash money was kept inside a chocolate box in my house and today 11 September 1985, I brought the recorder and another officer (Recorder's note: CSI Raymond Ng and SI Tan Siang Khng refer) to my house to retrieve the money. I surrendered the money to the CPIB and I confirm that this is the money which I took from the two snack bar operators, between April/May 1985 to August 1985. Every month, it was Lee Poh Choo who handed me the money. She went to my office to give the money and also the statement of account. Nobody witnessed the transactions. I did not sign any acknowledgement. My intention was to surrender the money to AAS some later date. Right now I have not told anyone about my intention. I am unable to explain how I am to deliver the money to the AAS at some later date.

Before I conclude I want to say a few words on the admissibility of a 'mixed statement', one which contains both exculpatory and inculpatory matters, like the appellant's statement which I have just quoted. The Court of Criminal Appeal in the case of *Chan Kin Choi* v *PP*[5] has endorsed the approach taken by the House of Lords in *R* v *Sharp*.[6] In that case the principle enunciated was that in dealing with a 'mixed statement' both the incriminating parts and the excuses or explanations must be considered in determining where the truth lies. And also, it should be borne in mind that the incriminating parts are likely to be true whereas the excuses need not carry the same weight. Therefore, the learned district judge as a decider of facts was entitled, on a consideration of the whole of the evidence before him, to treat the inculpatory parts of the appellant's statement as containing matters of truth, and to reject his explanations he gave favourable to himself.

For all these reasons, the appellant's appeal against the convictions must be dismissed. It remains for me to hear submissions on the appeals by the respondent against the sentences.

Appeal dismissed.

Solicitors: *Amarjit Rubin & Partners.*

Reported by *Mathavan Devadas*